

# Exhibit A

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# County of Monterey Board Policy Manual

<b>Policy Name</b> Monterey County Water Allocation Priorities and Procedures	<b>Policy Number</b>	<b>Page</b>
<b>Policy Category</b> Government and Administration		

## **I. Purpose**

Establish a uniform policy for the allocation of limited water resources within the unincorporated areas of Monterey County within the Monterey Peninsula Water Management District service area.

## **II. Background**

Monterey Peninsula Water Management District (“MPWMD”) has adopted rules that govern water resources within its jurisdictional boundaries (see Figure 1 below). MPWMD rules include, among other things, the ability to allocate water to local governments within its territory. This includes allocations to the County of Monterey (“County”).

Water allocations are used by MPWMD to manage water supplies within MPWMD boundaries. See Figure 1 for MPWMD District Boundaries.

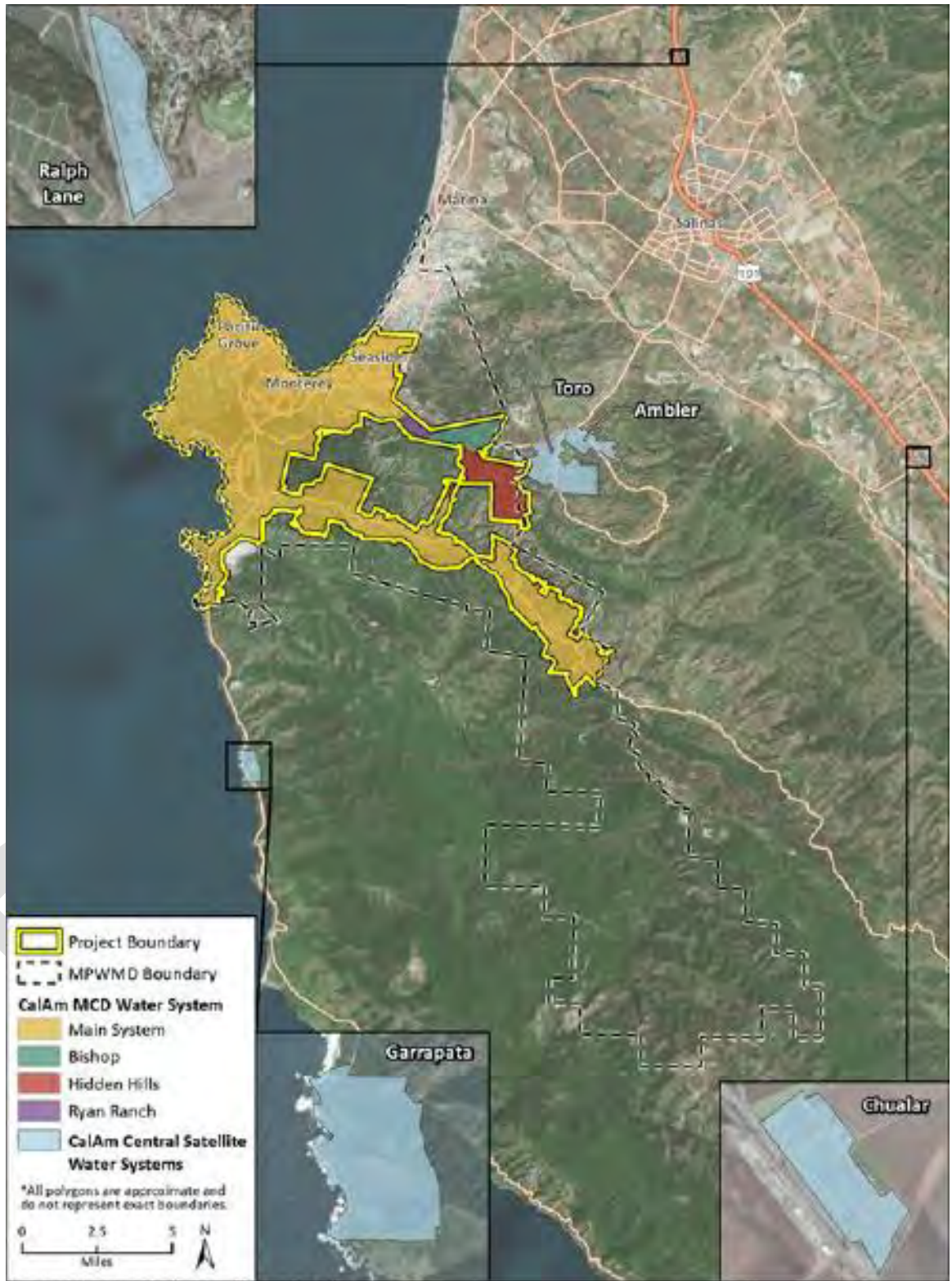


Figure 1 - MPWMD Service Area overlap with Cal-AM Service Area. Note: “Project Boundary” in yellow is the Cal-AM Service Area within MPWMD boundaries

The Cease-and-Desist Order (CDO) in place for new Cal-Am service connections does not currently allow for the installation of new water meters. A request to modify the CDO is under review and pending with the State Water Resources Quality Control Board (SWQCB).

On January 27, 2025, MPWMD allocated 72-acre -feet of water per year (AFY) to the County for use in the MPWMD service area. The County had 10.95 AFY remaining from the Paralta/Pre-Paralta allocations as of January 27, 2025, bringing the total combined allocations to the County to 82.95 AFY. The use of the water is at the County's discretion. When the County approves a suballocation of water, MPWMD debits the amount from the County's allocation when it issues a water permit.

Also on January 27, 2025, MPWMD adopted Ordinance No. 197, modifying Rule 33 requiring projects in the Bishop and Ryan Ranch subsystems that request an allocation of water be allocated water from the County's allocation. Before this date, water was allocated from the Seaside Groundwater Basin Adjudication.

The County may approve developments, and construction permits in the unincorporated areas pursuant to Monterey County Code ("MCC"). Construction permits can only be issued after the issuance of a water permit from MPWMD.

Water allocated by MPWMD to the County is currently limited and the demand by property owners and developers for the County's limited water allocation within the unincorporated area exceeds the limited supply. MPWMD staff have determined that up to 2,000 AFY are available and that they will provide additional allocations to jurisdictions in the future. The 2,000 AFY exceeds current demand in the unincorporated areas, however, it is unclear how much of this total allocation will be made available to the County and when.

Currently, the County does not have an adopted policy for the allocation of water in the MPWMD area. The past practice of the County typically included approval of a water credit allocation at the time a construction permit was ready to issue on a first-come first-served basis. The Planning Commission authorized the allocation of water credits when acting on a discretionary permit. In these cases, water allocations were reserved after the discretionary decision and until a construction permit was ready to issue. After accounting for most of the County's water allocation (circa 2000), staff established a "water waiting list" for those projects that were approved but could not move forward with building until water became available. Projects approved in the Bishop and Ryan Ranch subsystems are also included in the "water waiting list". This Policy addresses the "water waiting list" and updates the past practice for allocation of the County's water.

Given recent changes in California housing law requiring municipalities to prioritize utility services for housing development planned in the Housing Element of the General Plan, the finite allocation of water provided to the County by MPWMD, and the lack of a formal policy to prioritize the allocation of water to uses and development that furthers County goals and interests, development of a Water Allocation Policy for areas within the MPWMD service area is prudent.

### **III. Policy**

It is the policy of the County to prioritize the allocation of limited water resources in the MPWMD area to housing development. This prioritization is reflected in the following order of priority:

1. Honor past commitments to the allocation of water established in the “HCD Approved Water Waitlist”.<sup>1</sup>
2. Development of Planned Housing Growth.<sup>2</sup>
3. First Come First Served.<sup>3</sup>
4. Strategic Reserve.<sup>4</sup>

In accordance with the above listed priorities, the Director of Housing and Community Development, or their designee (collectively, “HCD Director”) shall be charged with tracking water allocations provided to the County and reserving portions of each new allocation as follows:

Prior commitments established in the “HCD Approved Water Waitlist” for the allocation of water shall be accounted for and deducted from the total allocation available.

After accounting for prior commitments, all remaining water and any future allocations shall be reserved as follows:

- 80% of allocations shall be reserved for Planned Housing Growth;
- 15% First-come, First-Served Basis; and

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<sup>1</sup> Past commitments include water allocated by the Board of Supervisors, Planning Commission, Zoning Administrator, or Chief of Planning and those properties or projects that have been on the County’s “water waiting list” as modified to exclude properties and projects that were on the list but have subsequently secured water from other sources prior to receiving an allocation from the County. The “water waiting list” is available at the Housing and Community Development Department.

<sup>2</sup> Planned Housing Growth as defined this policy in Section IV.1.I.

<sup>3</sup> All remaining development projects that do not meet the definition of Planned Housing Growth would fall under this category. Residential development shall comply with fixture limitations as defined in Section IV.2.I.

<sup>4</sup> This category can be allocated to other uses that are not covered under other categories, at the discretion of the Board of Supervisors as defined in Section IV.3.

- 5% of allocations shall be retained as a strategic reserve.
  - \*The Monterey County Board of Supervisors shall retain the authority to approve allocations from the Strategic Reserve category pursuant to a resolution.

#### IV. Procedure

The County shall review all land use entitlement permit and construction permit applications in the MPWMD service area pursuant to this Policy. An application for development requesting water shall be submitted with an MPWMD water permit application and a written request from the applicant for an allocation of water from the County specifying the amount of water requested and identifying the category the water is proposed to come from (i.e. Planned Housing Growth, First Come First Served, or Strategic Reserve). The County shall notify the applicant during the completeness review of the construction permit or the land use entitlement if the project is eligible for water and meets the criteria outlined in this Policy. The County will maintain a list of projects that have been provided notice of eligibility, including the amount of water requested and the category or suballocation area the water is proposed to come from. Such list will be available on the County's website.

##### 1. Planned Housing Growth:

- i. Projects that qualify under this category include the following:
  - a. A housing project that:
    - Is located in an Affordable Housing Overlay as defined in the 2010 General Plan, or is listed as a Housing Element Opportunity Site in the 6<sup>th</sup> Cycle Housing Element Update; and
    - Provides no fewer than the minimum percentage of total units deed restricted to lower-income and moderate-income households as required by MCC Chapter 18.40 or provides more than 50 percent of the units at levels affordable to moderate income, workforce I, and/or workforce II households; and
    - Meets a minimum density of 10 dwelling units/per 1 acre.

Exclusive from the above, the following projects also qualify under this category:

- b. An accessory dwelling unit or junior accessory dwelling unit that does not exceed a subtotal of 12 indoor fixture units (0.12 afy) as demonstrated in Table No. 2 of the MPWMD Residential Water Release Form and Water Permit Application.
- c. A single-family dwelling on a vacant lot of record that does not exceed a proposed total fixture unit count of 25 fixture units (0.25 afy) as demonstrated in Table No. 2 of the MPWMD Residential Water Release Form and Water Permit Application.
- d. Portions of housing projects that are deed-restricted to low-income

households as required by MCC Chapter 18.40 or as required by State Housing Law (i.e. State Density Bonus Law and/or Builders Remedy Law).

- e. Expansions to projects with existing multifamily developments for projects that meet the definition of Planning Housing Growth as outlined in Section IV.1.I(a).

ii. Procedure for Planned Housing Growth:

- a. Ministerial Process (if no land use entitlement is required under the MCC): The HCD Director may approve a water allocation at the time a construction permit is ready to issue provided the project conforms with this Policy.

The water allocation will be held for the period of time that the construction period remains active as noted in the “Time Limits” discussion.

- b. Discretionary Process (if a land use entitlement is required under the MCC): The Appropriate Authority, may approve a water allocation with the land use entitlement. The Appropriate Authority shall consider whether the project conforms to this Policy.

The water allocation will be held by the project for the period that the entitlement remains active as noted in the “Time Limits” discussion.

The decision of the Appropriate Authority is appealable as outlined in the MCC.

2. First Come First Served: For projects that do not qualify for Planned Housing Growth as described in this Policy, the following requirements apply:

- i. Residential Unit Fixture Maximums – the following fixture unit maximums apply for residential projects to be considered for water credits under this category.

- a. Existing Single Family Residential Dwellings (SFDs) and Existing Multifamily Residential Dwelling Units (MFDs)– Water may be allocated for expansions, remodels, or replacement of existing SFDs and MFDs, provided that:

- The total proposed fixture count for the SFD does not exceed 25 (0.25 afy) as demonstrated in Table No. 2 of the MPWMD Residential Water Release Form and Water Permit Application; or
- No maximum shall apply to the expansion, remodel or replacement of MFDs.

- ii. Non-Residential Uses - No fixture maximums apply except as described in the procedures section that follows.

- iii. Procedure for First Come First Served

- a. Ministerial Process (if no land use entitlement is required under the MCC): The HCD Director, may approve a water allocation at the time a construction permit is ready to issue, provided that the project complies with this Policy.

The water allocation will be held for the period of time that the construction period remains active as noted in the “Time Limits” discussion. The decision of the HCD Director is not appealable.

- b. Discretionary Process (If a land use entitlement is required under the MCC): The Appropriate Authority may approve a water allocation with the land use entitlement. The Appropriate Authority shall consider whether the project conforms to this Policy.

The water allocation will be held by the project for the period that the entitlement remains active as noted in the “Time Limits” discussion.

The decision of the Appropriate Authority is appealable as outlined in the MCC.

### 3. Strategic Reserve:

#### i. Procedure

- a. The Board of Supervisors may authorize the allocation of water or authorize the HCD Director to approve the allocation of water, for those projects or properties that do not conform to these criteria from the Strategic Reserve allocation category. The Board shall consider the following findings when authorizing water allocation:

1. The project has been designed to minimize the amount of water needed; and
2. The project complies with the County’s adopted policies and regulations; and
3. The project will provide affordable housing, create new jobs, or has a public benefit.

The water allocation will be active as discussed in the “Time Limits” section below. The Board of Supervisor’s decision is not appealable.

### 4. HCD Director – Additional Review Procedure:

If, in the opinion of the HCD Director, additional review is required prior to approving a water allocation for a project that does not require land use entitlements, the HCD Director may refer the matter to the Planning Commission for a decision. The HCD Director can refer to a decision to the Planning Commission if any of the following would occur through the granting of a water allocation:

1. Significant public policy issues;

2. Significant, unmitigable, and adverse environmental impacts; or
3. Establishment of precedents or standards by which other projects will be measured.

Once the MPWMD application has been reviewed and approved by the County, the applicant will be responsible for submitting the application to the MPWMD to obtain a water permit. A construction permit will be released to the applicant once the MPWMD water permit has been issued and the applicant has provided proof of the approved permit to HCD.

5. Projects Requesting Water Allocation Prior to Policy Adoption

Projects requiring a discretionary permit that have requested a water allocation prior to the adoption of this Policy, but who were not on the “water waiting list” should be considered by the Planning Commission with the decision appealable to the Board of Supervisors.

Projects requiring a ministerial permit that have requested a water allocation prior to the adoption of this Policy, but who were not on the “water waiting list” should be considered by the HCD Director.

6. Time Limits on County Water Allocations

The County’s water allocations may be held by a project applicant for the time limits set by the MCC for approved construction permits and approved land use entitlements as applicable. If a project’s water allocation lapses, the allocation will be made available to other projects per this Policy.

For ministerial and discretionary permits, time extensions can be considered by the Appropriate Authority. A project provided water allocation pursuant to this Policy shall be held by a project applicant for a maximum of 5 years. Projects that include affordable housing deed restricted to low-income households may be eligible for additional time extensions outside of the 5-year maximum. Such request shall be made in writing to the HCD Director outlining the need for the additional time and forwarded to the Appropriate Authority for decision.

7. Review of Allocation Policy

The HCD Director, or designee, shall regularly review this Policy to assess the need for changes. The review shall include:

- The remaining balance of water allocations within each of the categories defined in this policy;
- The general magnitude of demand for water within each category;
- Any future water supplies that are anticipated; and
- Any changes to this policy that may be warranted to better facilitate the allocation of water. This includes, for instance, the ability to modify policies, criteria, and

procedures to better align with the intended purpose or the ability to shift the total amount of water reserved for each category given supply and demand.

**8. Review Date**

- a. This Policy will be reviewed as needed to better align with the ability to shift the total amount of water reserved for each category given supply and demand or as directed by the Board.

**9. Board Action**

- a. Legistar File Number \_\_\_\_\_

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